

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

CALMEDICA, LLC,

Plaintiff,

v.

NOVOSTE CORPORATION, et al.,

Defendants.

No. 03 C 3924

Andersen

001 2-2003

FILED
SEP 29 2003
MICHAEL W. DOUGLAS
CLERK, U.S. DISTRICT COURT

NOTICE OF MOTION

TO: See Attached Service List

PLEASE TAKE NOTICE that on October ten, 2003, at 9:00 a.m., or as soon thereafter as counsel may be heard we shall appear before the Honorable Judge Wayne R. Andersen, Room 1403, Judge of the United States District Court in the United States Courthouse, or before any other Judge who may be hearing his call of Motions, on that day in his place and stead and shall then and there present *Defendant Rush Presbyterian-St. Luke's Medical Center's Motion to Join Codefendant Novoste Corporation's Motion to Sever Claims and Transfer Venue*, a copy of which is attached hereto.

CASSIDAY, SCHADE & GLOOR

BY:

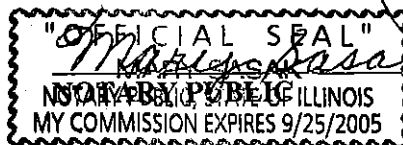
[Signature]
Attorneys for RUSH PRESBYTERIAN-ST. LUKE'S
MEDICAL CENTER

CASSIDAY, SCHADE & GLOOR
20 N. Wacker Drive - Ste. 1040
Chicago, Illinois 60606
(312) 641-3100

STATE OF ILLINOIS)
) SS.
COUNTY OF C O O K)

The undersigned, being first duly sworn on oath deposes and states that a copy of the foregoing pleadings therein was served upon the parties to which it is addressed, via facsimile transmission and by mailing a copy in sealed, postage prepaid envelopes, by depositing same in the U.S. Mail chute at 20 N. Wacker Drive, Chicago, IL 60606 on September 29, 2003.

SUBSCRIBED and SWORN to before me on this September 29, 2003



25525/13034/DVD/TLC

Calmedica, LLC v. Novoste Corporation

SERVICE LIST

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

CALMEDICA, LLC,

Plaintiff,

v.

NOVOSTE CORPORATION, et al.,

Defendants.

No. 03 C 3924 JUDGE
WAYNE R. ANDERSEN
MAGISTRATE JUDGE
EDWARD A. BOBRICK

**Defendant Rush-Presbyterian-St. Luke's Medical Center's Motion to Join
Codefendant Novoste, Corporation's Motion to Sever Claims and Transfer Venue**

NOW COMES defendant, RUSH-PRESBYTERIAN ST. LUKE'S MEDICAL CENTER ("RUSH"), by and through its attorneys, David C. Van Dyke and Timothy L. Conti, and for its Motion to Join defendant Novoste Corporation's ("Novoste") Motion to Sever Claims and Transfer Venue, and in support thereof, states as follows:

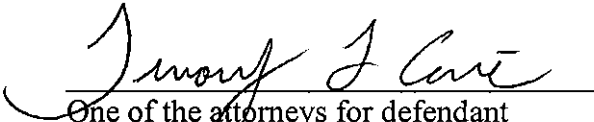
1. Defendant Novoste has pending before this Honorable Court its Motion to Sever Claims and Transfer Venue.
2. Pursuant to Novoste's Motion, this Honorable Court should sever and stay plaintiff Calmedica's claims against Rush, as Rush is merely a peripheral defendant, in order to transfer the litigation to the more appropriate forum of the Northern District of Georgia. As evidence of Rush's true status as a peripheral defendant is attached the affidavit of Paul Robbennolt, attorney for Novoste, and summary of Novoste's clinical trials conducted at Rush. See Paul Robbennolt affidavit (and exhibit A of Mr. Robbennolt's affidavit) attached hereto as Exhibit A.
3. For these reasons, Rush moves for an order granting it leave to join Novoste's Motion to Sever Claims and Transfer Venue.

FILED
SEP 29 2003
MICHAEL V. DOERING
CLERK, U.S. DISTRICT COURT
Attorney #

19

WHEREFORE, the defendant, Rush-Presbyterian St. Luke's Medical Center respectfully requests that this Honorable Court grant its Motion to Join defendant Novoste Corporation's Motion to Sever Claims and Transfer Venue.

Respectfully submitted,


One of the attorneys for defendant
Rush-Presbyterian St. Luke's Medical Center

David C. Van Dyke
Timothy L. Conti
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

Calmedica LLC,

Plaintiff,

v.

Civil File No. 03C-3924

Novoste Corporation and Rush-
Presbyterian-St. Luke's Medical Center,

Defendants.

AFFIDAVIT OF PAUL J. ROBBENNOLT

PAUL J. ROBBENNOLT, being first duly sworn on oath, deposes and states as follows:

1. I am an attorney with Dorsey & Whitney LLP and am one of the attorneys representing Defendants Novoste Corporation ("Novoste") and Rush-Presbyterian-St. Luke's Medical Center ("Rush") in this litigation.

2. Attached hereto as Exhibit A is a summary prepared by Novoste concerning its clinical trials of its Beta-CathTM System, the accused product in this litigation. The summary reveals that Novoste utilized 59 Trial Sites for its clinical trials of the Beta-CathTM System; Rush was the 27th Trial Site chronologically. The summary further reveals that Rush treated 50 patients out of a total of 2224 patients treated during the clinical trials, representing only 2% of the total patients involved in the trials.

Exhibit A

FURTHER AFFIANT SAYETH NOT.

By: Paul J. Robbennolt
Paul J. Robbennolt

Subscribed and sworn to before me
this 28th day of September 2003.

Karen M. Hesse
Notary Public



Novoste Summary

First Patient Treated with a Novoste Radiation System

January 31, 1996 at Emory University by Spencer King, MD

First Patient Treated with a Novoste Radiation System in Beta-Cath™ System Trial August 12, 1997 at University of Maryland by Warren Laskey, MD

Number of patients/sites in BERT Trial

86 patients at 4 sites

Number of patients/sites in Beta-Cath™ System Trial

1455 patients at 59 sites

Number of patients/sites in START Trial

476 patients at 50 sites

Number of patients/sites in START 40/20 Trial

207 patients at 22 sites

Total Number of patients/sites in US Novoste Coronary Trials Trial

2224 patients at 59 sites

Rush Presbyterian Site Summary

First Patient in Beta-Cath™ System Trial By Rush Presbyterian
May 13, 1998 (27th of 50 Beta-Cath™ System Trial Sites)

Number of patients treated by Rush Presbyterian in BERT Trial
0

Number of patients treated by Rush Presbyterian in Beta-Cath™ System Trial
34 of 1455 (2%)

Number of patients treated by Rush Presbyterian in START Trial
11 of 476 (2%)

Number of patients treated by Rush Presbyterian in START 40/20 Trial
5 of 207 (2%)

Total Number of patients treated by Rush Presbyterian in US Novoste Coronary Trials
50 of 2224 (2%)

Exhibit A to Affidavit of Paul Robbennolt